

AMENDED IN SENATE JULY 14, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 10

Introduced by Assembly Member Gatto

December 1, 2014

An act to amend Sections 82015, 82033, 82034, 87103, 87206, and 87207 of, and to add Sections 87206.5 and 87211 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 10, as amended, Gatto. Political Reform Act of 1974: behested payments and economic interest disclosures.

(1) The Political Reform Act of 1974 requires elected officers, candidates, and committees to file semiannual campaign statements that include, among other things, the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received. The act provides that contributions include a payment made at the behest of a candidate unless full and adequate consideration is received from the candidate or it is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The act provides that a payment made principally for legislative, governmental, or charitable purposes is presumed to be made for purposes unrelated to a candidate's candidacy for elective office and is neither a gift nor a contribution. The act requires a payment of this type made at the behest of a candidate who is an elected officer to be reported within 30 days following the date on which the payment or payments

equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which the payments are made.

~~This bill would also require candidates who are required to file campaign statements, and elected officers~~ *a Member of the Legislature or a person elected to a statewide elective office*, for one year after ~~they leave~~ *he or she leaves* elective office, to report within 30 days following the date on which a behested payment or payments are made for legislative, governmental, or charitable purposes that equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which the payments are made. *The bill would only require a Member of the Legislature or a person elected to a statewide elective office to report the behested payment or payments, as described above, if the behested payment or payments would financially benefit the former officerholder or his or her immediate family, the former officeholder's employer or the employer of a member of his or her immediate family, or an entity with whom the former officeholder or a member of his or her immediate family is negotiating employment.*

(2) The Political Reform Act of 1974 prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the public official knows or has reason to know that he or she has a financial interest. A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a business entity in which the public official has a direct or indirect investment worth \$2,000 or more, real property in which the public official has a direct or indirect interest worth \$2,000 or more, and sources of income aggregating \$500 or more in value within 12 months ~~prior to~~ *before* the time when the decision is made.

The Political Reform Act of 1974 requires persons holding specified public offices to file disclosures of investments, real property interests, and income within specified periods of assuming or leaving office, and annually while holding the office. The act requires the disclosures to include a statement indicating, within a specified value range, the fair market value of investments or interests in real property and the aggregate value of income received from a source.

This bill would increase the thresholds at which a public official has a disqualifying financial interest in sources of income from \$500 to

\$1,000, in investments in business entities from \$2,000 to \$5,000, and in interests in real property from \$2,000 to \$10,000.

~~The~~ This bill would make conforming adjustments to the thresholds at which income, investments, and interests in real property must be disclosed on a public official's statement of economic interests. The bill would also revise the dollar amounts associated with the value ranges for reporting the value of economic interests.

This bill would require certain public officials to disclose information on the official's statement of economic interests relating to governmental decisions for which the public official had a disqualifying financial interest, as specified.

Existing law makes a knowing or willful violation of the act a misdemeanor and subjects offenders to criminal penalties.

By creating additional crimes, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 82015 of the Government Code is
2 amended to read:

3 82015. (a) "Contribution" means a payment, a forgiveness of
4 a loan, a payment of a loan by a third party, or an enforceable
5 promise to make a payment except to the extent that full and
6 adequate consideration is received, unless it is clear from the
7 surrounding circumstances that it is not made for political purposes.

8 (b) (1) A payment made at the behest of a committee, as defined
9 in subdivision (a) of Section 82013, is a contribution to the

1 committee unless full and adequate consideration is received from
2 the committee for making the payment.

3 (2) A payment made at the behest of a candidate is a contribution
4 to the candidate unless the criteria in either subparagraph (A) or
5 (B) are satisfied:

6 (A) Full and adequate consideration is received from the
7 candidate.

8 (B) It is clear from the surrounding circumstances that the
9 payment was made for purposes unrelated to his or her candidacy
10 for elective office. The following types of payments are presumed
11 to be for purposes unrelated to a candidate's candidacy for elective
12 office:

13 (i) A payment made principally for personal purposes, in which
14 case it may be considered a gift under Section 82028. Payments
15 that are otherwise subject to the limits of Section 86203 are
16 presumed to be principally for personal purposes.

17 (ii) A payment made by a state, local, or federal governmental
18 agency or by a nonprofit organization that is exempt from taxation
19 under Section 501(c)(3) of the Internal Revenue Code.

20 (iii) (I) A payment not covered by clause (i), made principally
21 for legislative, governmental, or charitable purposes, in which case
22 it is neither a gift nor a contribution. However, payments of this
23 type that are made at the behest of a candidate ~~who is required to~~
24 ~~file a campaign statement, a candidate who is an elected officer,~~
25 ~~or an elected officer for one year after he or she leaves elective~~
26 ~~office, who is an elected officer~~ shall be reported within 30 days
27 following the date on which the payment or payments equal or
28 exceed five thousand dollars (\$5,000) in the aggregate from the
29 same source in the same calendar year in which they are made.
30 The report shall be ~~filed, for a candidate who is required to file a~~
31 ~~campaign statement, with the officials and agencies he or she is~~
32 ~~required to file his or her campaign statement, for an elected officer,~~
33 ~~filed with the elected officer's agency, and for an elected officer~~
34 ~~for the one year after he or she has left elective office, with the~~
35 ~~agency the elected officer was required to file the statement when~~
36 ~~he or she was an elected officer. agency.~~ The report shall be a
37 public record subject to inspection and copying pursuant to Section
38 81008. The report shall contain the following information: name
39 of payor, address of payor, amount of the payment, date or dates
40 the payment or payments were made, the name and address of the

1 payee, a brief description of the goods or services provided or
2 purchased, if any, and a description of the specific purpose or event
3 for which the payment or payments were made. Once the
4 five-thousand-dollar (\$5,000) aggregate threshold from a single
5 source has been reached for a calendar year, all payments for the
6 calendar year made by that source shall be disclosed within 30
7 days after the date the threshold was reached or the payment was
8 made, whichever occurs later. Within 30 days after receipt of the
9 report, state agencies shall forward a copy of these reports to the
10 ~~Commission~~, *commission*, and local agencies shall forward a copy
11 of these reports to the officer with whom ~~candidates for, and elected~~
12 ~~officers of, of~~ that agency file their campaign statements.

13 *(II) A Member of the Legislature or a person elected to a*
14 *statewide elective office, as defined in Section 82053, shall report*
15 *behested payments of the type described in subclause (I) for one*
16 *year after he or she leaves the Legislature or the statewide elective*
17 *office. The report shall be made in accordance with the*
18 *requirements of subclause (I). A Member of the Legislature or a*
19 *person elected to a statewide elective office shall only report a*
20 *payment pursuant to this subclause if the payment would financially*
21 *benefit the former officeholder or a member of his or her immediate*
22 *family, the former officeholder's employer or the employer of a*
23 *member of his or her immediate family, or an entity with whom*
24 *the former officeholder or a member of his or her immediate family*
25 *is negotiating employment.*

26 (C) For purposes of subparagraph (B), a payment is made for
27 purposes related to a candidate's candidacy for elective office if
28 all or a portion of the payment is used for election-related activities.
29 For purposes of this subparagraph, "election-related activities"
30 shall include, but are not limited to, the following:

31 (i) Communications that contain express advocacy of the
32 nomination or election of the candidate or the defeat of his or her
33 opponent.

34 (ii) Communications that contain reference to the candidate's
35 candidacy for elective office, the candidate's election campaign,
36 or the candidate's or his or her opponent's qualifications for
37 elective office.

38 (iii) Solicitation of contributions to the candidate or to third
39 persons for use in support of the candidate or in opposition to his
40 or her opponent.

1 (iv) Arranging, coordinating, developing, writing, distributing,
2 preparing, or planning of any communication or activity described
3 in clause (i), (ii), or (iii).

4 (v) Recruiting or coordinating campaign activities of campaign
5 volunteers on behalf of the candidate.

6 (vi) Preparing campaign budgets.

7 (vii) Preparing campaign finance disclosure statements.

8 (viii) Communications directed to voters or potential voters as
9 part of activities encouraging or assisting persons to vote if the
10 communication contains express advocacy of the nomination or
11 election of the candidate or the defeat of his or her opponent.

12 (D) A contribution made at the behest of a candidate for a
13 different candidate or to a committee not controlled by the
14 behesting candidate is not a contribution to the behesting candidate.

15 (3) A payment made at the behest of a member of the Public
16 Utilities Commission, made principally for legislative,
17 governmental, or charitable purposes, is not a contribution.
18 However, payments of this type shall be reported within 30 days
19 following the date on which the payment or payments equal or
20 exceed five thousand dollars (\$5,000) in the aggregate from the
21 same source in the same calendar year in which they are made.
22 The report shall be filed by the member with the Public Utilities
23 Commission and shall be a public record subject to inspection and
24 copying pursuant to Section 81008. The report shall contain the
25 following information: name of payor, address of payor, amount
26 of the payment, date or dates the payment or payments were made,
27 the name and address of the payee, a brief description of the goods
28 or services provided or purchased, if any, and a description of the
29 specific purpose or event for which the payment or payments were
30 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
31 from a single source has been reached for a calendar year, all
32 payments for the calendar year made by that source shall be
33 disclosed within 30 days after the date the threshold was reached
34 or the payment was made, whichever occurs later. Within 30 days
35 after receipt of the report, the Public Utilities Commission shall
36 forward a copy of these reports to the Fair Political Practices
37 Commission.

38 (c) "Contribution" includes the purchase of tickets for events
39 such as dinners, luncheons, rallies, and similar fundraising events;
40 the candidate's own money or property used on behalf of his or

1 her candidacy, other than personal funds of the candidate used to
2 pay either a filing fee for a declaration of candidacy or a candidate
3 statement prepared pursuant to Section 13307 of the Elections
4 Code; the granting of discounts or rebates not extended to the
5 public generally or the granting of discounts or rebates by television
6 and radio stations and newspapers not extended on an equal basis
7 to all candidates for the same office; the payment of compensation
8 by any person for the personal services or expenses of any other
9 person if the services are rendered or expenses incurred on behalf
10 of a candidate or committee without payment of full and adequate
11 consideration.

12 (d) "Contribution" further includes any transfer of anything of
13 value received by a committee from another committee, unless
14 full and adequate consideration is received.

15 (e) "Contribution" does not include amounts received pursuant
16 to an enforceable promise to the extent those amounts have been
17 previously reported as a contribution. However, the fact that those
18 amounts have been received shall be indicated in the appropriate
19 campaign statement.

20 (f) (1) Except as provided in paragraph (2) or (3), "contribution"
21 does not include a payment made by an occupant of a home or
22 office for costs related to any meeting or fundraising event held
23 in the occupant's home or office if the costs for the meeting or
24 fundraising event are five hundred dollars (\$500) or less.

25 (2) "Contribution" includes a payment made by a lobbyist or a
26 cohabitant of a lobbyist for costs related to a fundraising event
27 held at the home of the lobbyist, including the value of the use of
28 the home as a fundraising event venue. A payment described in
29 this paragraph shall be attributable to the lobbyist for purposes of
30 Section 85702.

31 (3) "Contribution" includes a payment made by a lobbying firm
32 for costs related to a fundraising event held at the office of the
33 lobbying firm, including the value of the use of the office as a
34 fundraising event venue.

35 (g) Notwithstanding the foregoing definition of "contribution,"
36 the term does not include volunteer personal services or payments
37 made by ~~any~~ *an* individual for his or her own travel expenses if
38 the payments are made voluntarily without any understanding or
39 agreement that they shall be, directly or indirectly, repaid to him
40 or her.

(h) “Contribution” further includes the payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(1) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(2) The communication is made at the behest of the affected candidate or committee.

(i) “Contribution” further includes a payment made by a person to a multipurpose organization as defined and described in Section 84222.

SEC. 2. Section 82033 of the Government Code is amended to read:

82033. “Interest in real property” includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, ~~indirectly~~ *indirectly*, or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is ten thousand dollars (\$10,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, ~~indirectly~~ *indirectly*, or beneficially, a 10-percent interest or greater.

SEC. 3. Section 82034 of the Government Code is amended to read:

82034. “Investment” means any financial interest ~~in~~ *in*, or security issued ~~by~~ *by*, a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, ~~or~~ does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years ~~prior to~~ *before* the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds five thousand dollars (\$5,000). The term “investment” does not include a time or demand deposit in a

1 financial institution, shares in a credit union, any insurance policy,
 2 interest in a diversified mutual fund registered with the Securities
 3 and Exchange Commission under the Investment Company Act
 4 of 1940 (15 U.S.C. *Sec.* 80a–1 et seq.) or in a common trust fund
 5 created pursuant to Section 1585 of the Financial Code, interest
 6 in a government defined-benefit pension plan, or any bond or other
 7 debt instrument issued by ~~any~~ a government or government agency.
 8 Investments of an individual includes a pro rata share of
 9 investments of any business entity, mutual fund, or trust in which
 10 the individual or immediate family owns, directly, indirectly, or
 11 beneficially, a 10-percent interest or greater. The term “parent,
 12 ~~subsidiary~~ subsidiary, or otherwise related business entity” shall
 13 be specifically defined by regulations of the ~~Commission~~.
 14 *commission*.

15 SEC. 4. Section 87103 of the Government Code is amended
 16 to read:

17 87103. A public official has a financial interest in a decision
 18 within the meaning of Section 87100 if it is reasonably foreseeable
 19 that the decision will have a material financial effect,
 20 distinguishable from its effect on the public generally, on the
 21 official, a member of his or her immediate family, or on any of
 22 the following:

23 (a) Any business entity in which the public official has a direct
 24 or indirect investment worth five thousand dollars (\$5,000) or
 25 more.

26 (b) Any real property in which the public official has a direct
 27 or indirect interest worth ten thousand dollars (\$10,000) or more.

28 (c) Any source of income, except gifts or loans by a commercial
 29 lending institution made in the regular course of business on terms
 30 available to the public without regard to official status, aggregating
 31 one thousand dollars (\$1,000) or more in value provided ~~or to,~~
 32 promised to, ~~or received by,~~ by the public official within 12 months
 33 before the time when the decision is made.

34 (d) Any business entity in which the public official is a director,
 35 officer, partner, trustee, employee, or holds any position of
 36 management.

37 (e) Any donor of, or any intermediary or agent for a donor of,
 38 a gift or gifts aggregating two hundred fifty dollars (\$250) or more
 39 in value provided to, received by, or promised to the public official
 40 within 12 months before the time when the decision is made. The

1 amount of the value of gifts specified by this subdivision shall be
2 adjusted biennially by the commission to equal the same amount
3 determined by the commission pursuant to subdivision (f) of
4 Section 89503.

5 For purposes of this section, indirect investment or interest means
6 any investment or interest owned by the spouse or dependent child
7 of a public official, by an agent on behalf of a public official, or
8 by a business entity or trust in which the official, the official's
9 agents, spouse, and dependent children own directly, indirectly,
10 or beneficially a 10-percent interest or greater.

11 SEC. 5. Section 87206 of the Government Code is amended
12 to read:

13 87206. If an investment is required to be disclosed under this
14 article, the statement shall contain all of the following:

15 (a) A statement of the nature of the investment.

16 (b) *(1) The name of the business entity in which each*
17 *investment is held, and a general description of the business activity*
18 *in which the business entity is engaged. If a filer is required to*
19 *report on his or her statement of economic interests a business*
20 *entity investment in which the filer is a director, officer, partner,*
21 *or trustee, except as provided in paragraph (2), the filer shall*
22 *provide a thorough and detailed description of the business entity's*
23 *activities and disclose the names of all business partners who share*
24 *a financial interest in the business entity, based on criteria*
25 *established by the Commission.* ~~commission.~~

26 *(2) A filer is not required to provide a thorough and detailed*
27 *description of the business entity's activities and is not required*
28 *to disclose the names of all business partners who share a financial*
29 *interest in the business entity if the business entity is publicly*
30 *traded.*

31 (c) A statement indicating which of the following represents
32 the fair market value of the investment:

33 (1) At least five thousand dollars (\$5,000) but not greater than
34 ten thousand dollars (\$10,000).

35 (2) Greater than ten thousand dollars (\$10,000) but not greater
36 than one hundred thousand dollars (\$100,000).

37 (3) Greater than one hundred thousand dollars (\$100,000) but
38 not greater than two hundred fifty thousand dollars (\$250,000).

39 (4) Greater than two hundred fifty thousand dollars (\$250,000)
40 but not greater than five hundred thousand dollars (\$500,000).

1 (5) Greater than five hundred thousand dollars (\$500,000) but
2 not greater than one million dollars (\$1,000,000).

3 (6) Greater than one million dollars (\$1,000,000) but not greater
4 than two million dollars (\$2,000,000).

5 (7) Greater than two million dollars (\$2,000,000).

6 (d) In the case of a statement filed under Section 87203 or
7 87204, if the investment was partially or wholly acquired or
8 disposed of during the period covered by the statement, the date
9 of acquisition or disposal.

10 SEC. 6. Section 87206.5 is added to the Government Code, to
11 read:

12 87206.5. (a) If an interest in real property is required to be
13 disclosed under this article, the statement shall contain all of the
14 following:

15 (1) A statement of the nature of the interest.

16 (2) The address or other precise location of the real property.

17 (3) A statement indicating which of the following represents
18 the fair market value of the interest in real property:

19 (A) At least ten thousand dollars (\$10,000) but not greater than
20 two hundred fifty thousand dollars (\$250,000).

21 (B) Greater than two hundred fifty thousand dollars (\$250,000)
22 but not greater than five hundred thousand dollars (\$500,000).

23 (C) Greater than five hundred thousand dollars (\$500,000) but
24 not greater than seven hundred fifty thousand dollars (\$750,000).

25 (D) Greater than seven hundred fifty thousand dollars (\$750,000)
26 but not greater than one million dollars (\$1,000,000).

27 (E) Greater than one million dollars (\$1,000,000) but not greater
28 than two million dollars (\$2,000,000).

29 (F) Greater than two million dollars (\$2,000,000).

30 (4) In the case of a statement filed under Section 87203 or
31 87204, if the interest in real property was partially or wholly
32 acquired or disposed of during the period covered by the statement,
33 the date of acquisition or disposal.

34 (b) For purposes of disclosure under this article, “interest in real
35 property” does not include the principal residence of the filer or
36 any other property that the filer uses exclusively as the personal
37 residence of the filer.

38 SEC. 7. Section 87207 of the Government Code is amended
39 to read:

1 87207. (a) Except as provided in subdivision (b), if income is
2 required to be reported under this article, the statement shall contain
3 all of the following:

4 (1) The name and address of each source of income aggregating
5 one thousand dollars (\$1,000) or more in value, or fifty dollars
6 (\$50) or more in value if the income was a gift, and a general
7 description of the business activity, if any, of each source.

8 (2) A statement indicating which of the following represents
9 the aggregate value of income from each source, or in the case of
10 a loan, the highest amount owed to each source:

11 (A) At least one thousand dollars (\$1,000) but not greater than
12 ten thousand dollars (\$10,000).

13 (B) Greater than ten thousand dollars (\$10,000) but not greater
14 than one hundred thousand dollars (\$100,000).

15 (C) Greater than one hundred thousand dollars (\$100,000) but
16 not greater than two hundred fifty thousand dollars (\$250,000).

17 (D) Greater than two hundred fifty thousand dollars (\$250,000)
18 but not greater than five hundred thousand dollars (\$500,000).

19 (E) Greater than five hundred thousand dollars (\$500,000).

20 (3) A description of the consideration, if any, for which the
21 income was received.

22 (4) In the case of a gift, the amount and the date on which the
23 gift was received.

24 (5) In the case of a loan, the annual interest rate, the security,
25 if any, given for the loan, and the term of the loan.

26 (b) When the filer's pro rata share of income to a business entity,
27 including income to a sole proprietorship, is required to be reported
28 under this article, the statement shall contain the following:

29 (1) (A) The name, address, ~~and~~ *and, except as provided in*
30 *subparagraph (B), a thorough and detailed description of the*
31 *business activity of the business entity based on criteria established*
32 *by the Commission.* ~~commission.~~

33 (B) *A filer is not required to provide a thorough and detailed*
34 *description of the business activity of the business entity if the*
35 *business entity is publicly traded.*

36 (2) The name of every person from whom the business entity
37 received payments if the filer's pro rata share of gross receipts
38 from that person was equal to or greater than ten thousand dollars
39 (\$10,000) during a calendar year.

1 (c) When a payment, including an advance or reimbursement,
2 for travel is required to be reported pursuant to this section, it may
3 be reported on a separate travel reimbursement schedule, which
4 shall be included in the filer's statement of economic interest. A
5 filer who chooses not to use the travel schedule shall disclose
6 payments for travel as a gift, unless it is clear from all surrounding
7 circumstances that the services provided were equal to or greater
8 in value than the payments for the travel, in which case the travel
9 may be reported as income.

10 SEC. 8. Section 87211 is added to the Government Code, to
11 read:

12 87211. (a) A public official who holds an office specified in
13 Section 87200 shall disclose on his or her statement of economic
14 interests each governmental decision for which a financial interest
15 resulted in the public official's disqualification from making,
16 participating in making, or in any way attempting to use his or her
17 official position to influence that governmental decision pursuant
18 to Section 87100 or, for a Member of the Legislature, Section
19 87102.5. The disclosure shall identify the governmental decision,
20 the date that the governmental decision was made or considered,
21 the financial interest that created the conflict of interests, and any
22 other relevant information that the ~~Commission~~ *commission* deems
23 appropriate.

24 (b) The disclosures required by this section are in addition to
25 any other required disclosures, including, but not limited to, the
26 requirements of Section 87105.

27 SEC. 9. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 SEC. 10. The Legislature finds and declares that this bill
37 furthers the purposes of the Political Reform Act of 1974 within

- 1 the meaning of subdivision (a) of Section 81012 of the Government
- 2 Code.

O